

Department of Energy
Washington, DC 20585

September 30, 2008

Chairman Charles D. Nottingham
Office of Chairman
Surface Transportation Board
395 E Street, SW
Washington, D.C. 20420-0001

RE: Docket Nos 38302S and 38376S

Dear Chairman Nottingham

The order entered in these dockets July 27, 2005 (served August 2, 2005, and effective September 1, 2005), approving the Government's settlement agreement with Union Pacific Railroad Company, further held these proceedings in abeyance while directing the Government to file quarterly reports on the progress of settlement negotiations. The Government continues to pursue settlement with individual carriers and is engaged in separate discussions with individual railroad defendants BNSF and Norfolk Southern. The Government and BNSF met via conference call on September 12, 2008, and DOE and Norfolk Southern have been actively exchanging information following the June 17, 2008, meeting referenced in our June 30, 2008, report. We are actively working with both BNSF and Norfolk Southern to continue discussions aimed at resolving these matters.

Accordingly, we are not yet in a position to report an agreement with either BNSF or Norfolk Southern. However, we remain hopeful that we will be able to reach agreements with both carriers. We will file a further report by the end of December 2008.

ENTERED
Office of Proceedings

SEP 30 2008

Part of
Public Record

Sincerely,

Stephen C. Skubel
Assistant General Counsel
For Litigation
(202) 586-5579

cc. Vice Chairman Francis P. Mulvey
Board Member W. Douglas Buttrey
Attached Service List

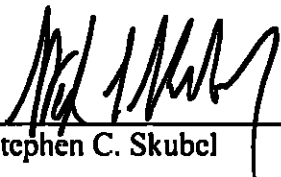


CERTIFICATE OF SERVICE

I, Stephen C Skubel, hereby certify that I served a copy of the foregoing document by prepaid first-class mail this 30th day of September, 2008, on the following

Aberdeen & Rockfish R.R. Co. P.O. Box 917 Aberdeen, NC 28315	Buffalo & Pittsburgh Railroad c/o Genesee & Wyoming, Inc. 66 Field Point Road Greenwich, CT 06830
Montana Rail Link, Inc. 101 International Way Missoula, MT 59808	James R. Paschall Greg E. Summy Norfolk Southern Railway Company Three Commercial Place Norfolk, VA 23510
Michael L. Rosenthal Covington & Burling 1201 Pennsylvania Avenue, NW Washington, D.C. 20004-2401	Jill Mulligan The Burlington Northern and Santa Fe Railway Company 2500 Lou Menk Drive, 3rd Floor Fort Worth, TX 76131
Paul Hitchcock Associate General Counsel CSX Transportation, Inc. 500 Water Street - J150 Jacksonville, FL 32202	Theodore K. Kalick Canadian National Railway Company 601 Pennsylvania Avenue, N.W. Suite 500 North Building Washington, D C 20004
Chris Guzzi Deborah Sedaris Providence & Worcester Railroad Co 75 Hammon Street Worcester, MA 01610	Robert G. Culliford, Esq. Guilford Transportation System Iron Horse Park North Billerica, MA 01862
Richard D. Robey, President North Shore Railroad Company 356 Priestly Avenue Northumberland, PA 17857	J. Michael Hemmer Louise A. Rinn Union Pacific Railroad Company 1400 Douglas Road, Stop 1580 Omaha, NE 68179
John R. Nadolny 14 Aviation Avenue Portsmouth, NH 03801	Ronald E. Fittrow 500 Water Street Jacksonville, FL 32202

D.J. Lewis Director of Marketing Tuscola & Saginaw Bay Railway Company 308 West Main Street Matthews Building, Suite 303 Owosso, MI 48867	Paul Guthrie Canadian Pacific Railway Company 401 9th Avenue, S.W. Gulf Canada Square, Suite 500 Calgary, Alberta T2P 4 Z4 Canada
Samuel M. Sipe, Jr. Carolyn D. Clayton Steptoe & Johnson LLP 1330 Connecticut Avenue, N W Washington, D C 20036	Robert H. Wheeler General Counsel Wisconsin Chicago Link Ltd 17641 Ashland Avenue Homewood, IL 60430
Terence M. Hynes Sidley Austin Brown & Wood, LLP 1501 K Street, N.W. Washington, D C 20005	Thomas J. Litwiler Fletcher & Sipple LLC 29 North Wacker Drive Suite 920 Chicago, IL 60606
Michael F McBride Lebocuf Lamb Greene & MacRae 1101 New York Avenue, N W Suite 1100 Washington, D.C. 20005	George H. Kleinberger P O Box 8002 Clifton Park, NY 12065



Stephen C. Skubel